



MIAMI BEACH

Special City Commission Meeting

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive

September 17, 2007

Mayor David Dermer
Vice-Mayor Matti Herrera Bower
Commissioner Simon Cruz
Commissioner Michael Góngora
Commissioner Saul Gross
Commissioner Jerry Libbin
Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez
City Attorney Jose Smith
City Clerk Robert E. Parcher

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's Office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

Special note: In order to ensure adequate public consideration, if necessary, the Mayor and City Commission may move any agenda item to the alternate meeting date which will only be held if needed. In addition, the Mayor and City Commission may, at their discretion, adjourn the Commission Meeting without reaching all agenda items.

Times based on the digital recording in the City Clerk's Office.

Meeting called to order at 5:14:10 p.m.

Mayor Dermer welcomed everyone and explained that this is the first of two budget hearings as required by law.

6:56:39 p.m.

ADDENDUM:

ACTION: Motion made by Vice-Mayor Bower; seconded by Commissioner Góngora to add item R9C as an emergency item to the Commission Agenda; Approved by acclamation; Vote: 7-0. See action R9C.

REGULAR AGENDA**R7 - Resolutions****5:14:27 p.m.**

R7A1 A Resolution Adopting: 1) The Tentative Ad Valorem Millage Of 5.6555 Mills For General Operating Purposes, Which Is Nine Percent (9%) Less Than The "Rolled-Back" Rate Of 6.2212 Mills; And 2) The Debt Service Millage Rate Of 0.2415 Mills; Further Setting The Second Public Hearing To Consider The Millage Rate For Fiscal Year (FY) 2007/08, On Wednesday, September 26, 2007 At 5:01 P. M. **5:01 p.m. First Reading, Public Hearing**
(Office of Budget & Performance Improvement)

ACTION: Title of the resolution read into the record. Item heard in conjunction with R7A2. Public hearing held. Resolution No. 2007-26637 adopted; the budget was amended. Motion made by Commissioner Steinberg; seconded by Vice-Mayor Bower; Voice vote: 7-0. Second Reading and second Public Hearing scheduled for September 26, 2007 at 5:01 p.m. Jose Cruz to notice. Lilia Cardillo to place on the Commission Agenda. **Kathie Brooks to handle.**

Amendment:

Reinstate the \$125,000 lifeguard stand between 72nd and 74th Streets

End

Donald Steud spoke.

State Representative Luis R. Garcia, Jr., spoke as a resident and on behalf of the community.

Jorge Gonzalez, City Manager, stated that a lot of effort has been put into getting to this stage of the budget and a lot of rhetoric has been issued throughout the State on what is and is not happening; a lot of information, and perhaps misinformation has been shared as to what the facts are and what is expected and what is not expected. He added that as the City began the budget process before the legislators in Tallahassee finalized their actions, dating back early in 2007, with a Commission Retreat in April, where at the recommendation of Commissioner Steinberg it was decided that Miami Beach should expect something from Tallahassee and begin by going to a roll back millage and then go from there depending on the actions in Tallahassee. He explained that based on the review of other communities throughout Miami-Dade County, Miami Beach is the only City with a population of 50,000 or greater that has done exactly what Tallahassee has directed to do. He urged the Commission to do what was proposed and resist the urge to go further at this time. He stated that the millage recommended for Commission approval is what was directed by Tallahassee Legislature, which is a roll back to the 2006-2007, plus an additional 9% reduction, representing a 23% reduction in millage, and an overall of \$17.5 million reduction in the budget from one year to the next; also on top of the \$17.5 million is the cost of continuing to do business, with the normal inflationary factors, which typically run between 6 to 8%, which represents approximately \$10 to \$12 million; added to the \$17 million impact to the Ad Valorem reduction represented a \$27 million problem that as a community the Administration had to solve.

He explained that this budget, fortunately, is not overly dependent on Ad-Valorem taxes, and added that there is a growth in revenue of approximately \$7 million in non-Ad-Valorem tax line items, which leaves a balance of \$20 million made up of savings that needed to be identified within the budget; which when compared to a \$240 million budget, represents a significant portion of that budget, especially when carving out certain elements of that budget. He continued explaining that feedback from the community, the Commission and/or surveys, demonstrated that public safety was an element of the budget not to be reduced. He also explained that next year's budget for public safety is about \$123 million of the City's budget, which compared to the overall service level, represents a 56% to 57% for public safety line items. When added to the cost of parks, with a budget of \$28 million, and which it was decided not to reduce level of services, leaves for City Commission's

consideration a small amount of money from which to further reduce expenses.

The Administration was directed to stay away from fee increases; there are nominal fee increases that are being proposed, and in fact the largest fee increase tentatively agreed to, the Fire EMS Transport fee, which was an increase of about \$720,000 in fees that was being predicated primarily on the fact that Miami-Dade County was planning to raise their fees as well and the City of Miami Beach wanted to mirror their action, he is recommending postponing for the time being, since as of yet Miami-Dade County has not acted on.

He stated that this year's budget is reduced by \$720,000 on the revenue side which is made up by reducing expenses on capital upkeep account, and possibly by the end of this fiscal year there will be year end surplus that will make this whole again, but that's how the budget is balanced.

He introduced Kathy Brooks and explained that the reductions are being made in a prudent way; services are not being diminished; and added that City services have improved over the last seven to eight years; the cost of services have increased but so have the level of services, with more parks, more youth centers, pools, more resources in the Police Department, in the Building Department and throughout the City. He stated that also the Administration has reduced the cost of fees for parks, and have tried to add other fee increases, but have not done much increase for the last several years, so the big winners in this process are primarily the homesteaded property owners. He agreed with State Representative Garcia that the ballot question that is for consideration in January 2009 has a very difficulty challenge before it and could lead to greater reductions in the following year, either imposed by legislature itself or by the tax and budget commission. He recommended that the City implement what Tallahassee requested and wait for further direction and instruction. Clearly, homeowners will see significant savings not only from Miami Beach, but also from the impact of reduction by Miami-Dade County. He explained that the third element, which is the school system, was exempted from tax implication, so that portion of the tax bill is not dramatically affected. Miami Beach will probably see greater challenges in the 2008/2009 budget year, he cannot tell what those challenges are, but they are to be expected, and reiterated that his professional recommendation is to do what is proposed now and see what the Tallahassee Legislature decides to do in their meetings in March and April and take that reaction and plan for the following year.

Kathie Brooks, Director of the Office of Budget and Performance Improvements, gave a detailed report of the proposed budget and made a PowerPoint presentation.

Jorge Gonzalez, City Manager, explained the proposed increase in the golf membership rate and the water and sewer fee increase.

Discussion held and questions answered.

Commissioner Libbin stated that the State also included that future budgets cannot increase by a percentage greater than the base budget, which is roughly 2.5% to 3%, and asked the City Manager to address the issue.

Jorge Gonzalez, City Manager, stated that the State forced the rollback plus the 9% reduction and also put in a mechanism to limit future growth. Once this budget is adopted next year at this time the millage will be driven down because the amount of ad valorem that can be collected; this year it is \$140 million, is capped and indexed to the statewide average per capita income, which has been historically in the neighborhood of 4% to 5%. The ad valorem component of the budget will grow by about 4% to 5% plus new construction. The non-homesteaded properties will be greatly impacted. The challenge going forward is how does the City makeup the 2% to 4% depending on any given year between what the cap on the ad valorem and the normal growth without adding new services. This will have to be made up through new construction, growth in revenue, looking for other efficiencies or new revenue.

Commissioner Steinberg stated that what this Commission is doing is very historic. The City has never reduced taxes the way it is being done today. The reality is that other communities throughout

the state and in Miami-Dade County did not reduce their millage as Miami Beach did.

Motion made by Commissioner Steinberg on R7A2 and R7A2, seconded by Vice-Mayor Bower.

Commissioner Gross stated that the Administration has done a terrific job with the assignment given to achieve the rollback plus the 9% cut, and done with minimal disruption to the organization and keeping the morale intact; the entire process is good. When looking at the reductions only about \$4 million comes from what people think of as "bureaucracy" out of the \$27 million, \$4 million is "efficiencies" in the system, perhaps next year people would want to see reductions in the bureaucracy and if the referendum does not pass in January, the State will probably mandate a further rollback to another year at least. He added that he would like to see cap on both homestead and non-homesteaded commercial properties. 70% of the people in Miami Beach are non-homesteaded and the economy is not doing all that well, and we will continue to see disinvestments in the City; the times are going to get harder and this City Commission will need to make more structural changes. He has been advocating trying to eliminate departments within the City and redistribute functions to other departments, but this would eliminate department heads and assistant department heads, and do away with some of the higher salaries and what people perceive as "bureaucracy." This Commission has directed Administration to look at the salary creep within the organization (Salary Review Study), to see how we can get back in balance with the private sector, because government salaries at the intermediate level far exceed what people make in private sectors. He would like to see the Commission task the City Manager with trying to come up with structural changes for next year regardless of what the State does.

Commissioner Libbin echoed Commissioner Gross' comments. He added that there is an item in the proposed cuts, the service levels were not impacted to a large extent, and he is concerned about a cut proposed removing a lifeguard stand in North Beach. At prior discussions three lifeguard stands were added last year because of inadequate coverage on the beaches. His concern is that this is sending the wrong message that the City is trying to bring more tourism and then removing lifeguard stands. He explained that this is a small amount of money and he asked the City Manager not to take the lifeguard stand away.

Discussion continued.

Eric Yuhr, Ocean Rescue, gave a tabulated weekly report for June 2007 of beach goers.

Richard McKinnon also gave a verbal report.

Discussion continued.

Jorge Gonzalez, City Manager, stated for clarification, that there are a handful of people that will be without a job because of the budget cuts, primarily in the unclassified ranks, the management ranks. The Administration identified vacant positions and transitioned about 40 to 50 employees, primarily Union classified positions, and unclassified where possible, but at the end of the day there were four or five people that are out of a job. He appreciates the larger scope of people feeling the bureaucracy, but added that almost half of the positions eliminated were in the "bureaucracy" and does not want to leave the lingering impression that this was an easy task. A policy decision will be made regarding the lifeguard stand, and it is up to the City Commission's discretion.

Motion by Commissioner Libbin to reinstate the \$125,000 lifeguard stand; seconded by Commissioner Cruz; Voice-vote: 7-0.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 451
2. Proposed FY 2007/08 Budget PowerPoint Presentation Handbook
3. Article written by Marty Evans, titled "Miami Beach Should Go 'Cyberpreneurial.'"

5:15:13 p.m.

R7A2 A Resolution Adopting Tentative Budgets For The General, RDA Ad Valorem Taxes, Enterprise, And Internal Service Funds For Fiscal Year 2007/08 Subject To A Second Public Hearing Scheduled On Wednesday, September 26, 2007 At 5:01 P.M. **5:01 p.m. First Reading, Public Hearing.**
(Office of Budget & Performance Improvement)

ACTION: Title of the resolution read into the record. Item heard in conjunction with R7A1. Public hearing held. Resolution No. 2007-26638 adopted. Motion made by Commissioner Steinberg; seconded by Vice-Mayor Bower; Voice vote: 7-0. Second Reading and second Public Hearing scheduled for September 26, 2007 at 5:01 p.m. Jose Cruz to notice. Lilia Cardillo to place on the Commission Agenda. **Kathie Brooks to handle.**

See action in R7A1.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 451
2. Proposed FY 2007/08 Budget PowerPoint Presentation Handbook

6:52:23 p.m.

R7B1 A Resolution Of The Board Of Directors Of The Normandy Shores Local Government Neighborhood Improvement District Adopting The Tentative Ad Valorem Millage Of 1.0363 Mills For Fiscal Year (FY) 2007/08 For The Normandy Shores Local Government Neighborhood Improvement District, Which Is Two Hundred Sixty-Six And Six Tenths Percent (266.6%) Greater Than The “Rolled-Back” Rate Of 0.2827 Mills, Subject To A Second Public Hearing Scheduled On Wednesday, September 26, 2007, At 5:02 p.m. **5:02 p.m. First Reading, Public Hearing.**
(Office of Budget & Performance Improvement)

ACTION: Title of the resolution read into the record. Public hearing held. Resolution No. 2007-26639 adopted. Motion made by Commissioner Libbin; seconded by Vice-Mayor Bower; Voice vote: 7-0. Second Reading and second Public Hearing scheduled for September 26, 2007 at 5:02 p.m. Jose Cruz to notice. Lilia Cardillo to place on the Commission Agenda. **Kathie Brooks to handle.**

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 451

6:53:24 p.m.

R7B2 A Resolution Of The Board Of Directors Of The Normandy Shores Local Government Neighborhood Improvement District Adopting The Tentative Operating Budget For Fiscal Year (FY) 2007/08 Subject To A Second Public Hearing Scheduled On Wednesday, September 26, 2007 At 5:02 p.m. **5:02 p.m. First Reading, Public Hearing.**

(Office of Budget & Performance Improvement)

ACTION: Title of the resolution read into the record. Public hearing held. Resolution No. 2007-26640 adopted. Motion made by Vice-Mayor Bower; seconded by Commissioner Libbin; Voice vote: 7-0. Second Reading and second Public Hearing scheduled for September 26, 2007 at 5:02 p.m. Jose Cruz to notice. Lilia Cardillo to place on the Commission Agenda. **Kathie Brooks to handle.**

Jorge Gonzalez, City Manager, recognized staff involved in the budget process, and thanked the Mayor and City Commission for their guidance during Commission Retreat and budget meetings; he also thanked all department heads, Chief of Staff, Assistant City Managers, Kathie Brooks and staff.

Kathie Brooks, Director of the Office of Budget and Performance Improvements, recognized Jose Cruz, Bill Gonzalez, Carmen Carlson, Joe Reilly, and everyone involved in this team effort.

Jorge Gonzalez, City Manager, also recognized Patricia Walker, Chief Finance Officer.

Mayor Dermer recognized the City Manager's efforts and staff and stated that they appreciate their work.

Handout or Reference Materials:

1. Ad in The Miami Herald – Ad # 451

6:57:27 p.m.

R7C A Resolution Calling For A General Election To Be Held On November 6, 2007 In The City Of Miami Beach For The Purpose Of Electing A Mayor And Three City Commissioners (Groups IV, V, And VI); Providing For Conduct Of Same By The Miami-Dade County Elections Division; Providing That Voting Precincts Shall Be Those As Established By Miami-Dade County; Providing For Notice Of Elections; Providing For The Form Of Ballot And Registration Of Voters In Accordance With State Law; Providing For Payment For Conducting Election To Miami-Dade County.

(City Attorney's Office)

ACTION: Resolution No. 2007-26641 adopted. Motion made by Vice-Mayor Bower; seconded by Commissioner Góngora; Voice vote: 7-0. **Robert Parcher to handle.**

6:57:52 p.m.

R7D A Resolution Re-Appointing Mr. Warren Bittner, Esq. To Serve As Special Master For Appeals Of Decisions Of The City's Historic Preservation Board Until September 16, 2010, Or Until A Successor Has Been Appointed, And Setting The Compensation At \$100.00 Per Hour With A Maximum Payment Of \$500.00 Per Case.

(City Clerk's Office)

ACTION: Resolution No. 2007-26642 adopted. Motion made by Vice-Mayor Bower; seconded by Commissioner Góngora; Voice vote: 7-0. **Robert Parcher to handle.**

6:58:09 p.m.

R7E A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Waiving, By 5/7ths Vote, The Formal Competitive Bidding Requirements, Finding Such Waiver To Be In The Best Interest Of The City, And Authorizing The City Manager, Through His Designee, Who Shall Be The Assistant Public Works Director For Operations, A Licensed State General Contractor And Roofing Contractor, To Select, Negotiate, And Award A Contract Agreement For The Purchase Of All Necessary Goods And Services In Connection With The Roof Replacement Of The Miami Beach Police Headquarters/Community Room, Located At 1100 Washington Avenue, Miami Beach, Florida, ("The Project"); Providing That All Documents Be Reviewed By The Appropriate Members Of The Administration And City Attorney's Office, And Shall Contain Those Minimum Terms And Conditions As Set Forth In This Resolution; Authorizing The City Manager And City Clerk To Execute Any And All Documents Relative To The Aforestated Project.
(Public Works)

ACTION: Resolution No. 2007-26643 adopted. Motion made by Vice-Mayor Bower; seconded by Commissioner Góngora; Voice vote: 7-0. **Fred Beckman to handle.**

Jorge Gonzalez, City Manager, introduced the item and explained that by policy, any new project that is added to the list this fiscal year needs authorization of the City Commission.

Fred Beckmann, Public Works Director, gave an estimate of \$60,000 for bidding of the project.

R9 – New Business and Commission Requests

7:12:16 p.m.

R9A Discuss and Clarify The Placement Of The \$95 Million Dollar Bond Issue On The November 6th, 2007 Ballot.

(Requested By Mayor Dermer)

ACTION: Discussion held. Resolution 2007-26645 adopted. Motion to add item as an emergency item to the agenda by acclamation; Voice-vote: 7-0.

Motion #1:

Motion by Commissioner Cruz; seconded by Vice-Mayor Bower, to refer to the Planning Board the issue of amending the hospital district main permitted uses category to allow for the adapted reuse of the existing buildings for nursing homes, ACLF, and other uses, with no new construction, no increase in FAR as it exists presently on various sites, and if structures are demolished, then the FAR will revert to the surrounding buildings; Voice-vote: 7-0. Jorge Gomez to handle.

Motion #2:

Motion by Commissioner Cruz to reconsider the placement of the bond issue on the ballot; seconded by Commissioner Libbin; passed unanimously; Voice-vote: 7-0. Bob Parcher to notify the Elections Department.

Motion #3:

Motion by Commissioner Cruz; seconded by Commissioner Libbin to rescind Resolution No. 2007-26630. Voice-vote: 7-0.

Mayor Dermer read a statement regarding the bond issue and also read the proposed Charter Ballot Question. He respectfully requested that those who voted in the previous majority, Commissioners Góngora, Libbin, Cruz and Steinberg reconsider their vote, and that they follow the Charter in substance and in spirit, do a full economic impact analysis of a full proposal, and after careful fully

informed deliberation, if so desired, present a fully prepared question to the voters of the City of Miami Beach.

Commissioner Cruz asked the City Attorney if the referendum question is legally placed for the election.

Jose Smith, City Attorney, stated that the referendum question is legally placed in his opinion, and that Section 5.02 of the Charter requires an economic impact analysis on legislative matters that have an economic impact on the budget. The ballot question seeks authorization for the issuance of bonds and does not require or obligate the City to actually issue those bonds or allocate funds at this time. If that ballot question passes at such time, then, in his opinion, an economic impact statement would be required.

Discussion held.

Luis Reiter Esquire, Sanders & Dempsey, Bond Counsel, explained that the approval by the voters of the referendum does not require the City Commission to approve the issuance of bonds or for the City to issue the bonds.

Mayor Dermer asked why not fully inform the public prior to their vote, and also asked Mr. Reiter that during his years of experience, had he personally seen a bond issue like this one done in five days with no work up?

Mr. Reiter stated that it is unusual to see a Resolution in front of the Commission approving a referendum in this short of time frame; however, he envisions the process to be for Administration to go forward between now and November 6 and pull together the fiscal information necessary and put that out to the voters.

Discussion continued.

Mayor Dermer explained that the Administration would have to give the Commission answers to all the questions submitted, such as the cost of demolition and development of a park, what is the condition of the seawall and search the building for the presence of asbestos, as well as value the three sites, Single Family, RM1 and Hospital zone; deal with the maintenance and staffing of the proposed park; and find out if the park will be a passive or an active park. He added that these are preliminary questions that need technical information that this Commission does not possess and the Administration has not had the time to investigate; once given back to the Commission, then it is presented in full to the public, and that is why the Charter provision exists requiring the City Commission to do that type of analysis. Mayor Dermer concluded that his argument is based on the way this is being done, not what has been done, and he is most concerned that the Commission has totally done this backwards to the detriment of the process of the City. He explained that during previous discussions there were concerns about \$100,000 for a lifeguard stand and the increase of a water bill, and this issue is about a fiscal economic impact of \$181 million and this Commission is not giving the chance to find out what the true fiscal impact is.

Commissioner Libbin asked Mr. Reiter if Miami-Dade County has authorization to issue bonds for undefined projects.

Mr. Reiter explained that the Miami-Dade County has done their GO authorization but they do not go back to the voters every year; Miami-Dade will issue the bonds over many years; they have the background material for the voters for very specific projects and these are funded as the need arises.

Discussion continued.

Commissioner Libbin stated that this issue was politicized, and if there were not an election coming up, this would have been handled in a rational matter, being assigned to the Planning Board and then having the Board decide what was in the best interest and then refer to the Commission. This Commission has done everything possible to try and jump this ahead so that there could be some impact prior to November 6. He added that it was a bad way to go, and he thinks they all played a role in that and it is a mistake.

Mayor Dermer stated that a motion for reconsideration can start the process from square one; if it is the will of the Commission to develop a bond issue, to gather the information, have the Administration put it together, have Finance review, and have the input from the entire City, then it would be an appropriate process.

Commissioner Cruz stated that his concern is the zoning issue and protecting the residents; he would like to give direction to have an Assisted Living Facility (ACLF) designation be considered by the Planning Board, so at least the residents can know they are protected if the hospital wants to sell.

Commissioner Gross stated the Commission is trying to avoid an intense residential project and not use a 3.0 FAR or high rise zoning, not so much the use, be that ACLF or another use.

Discussion continued.

Jorge Gomez, Planning Director, explained that the issue with the hospital district, as discussed at the July 2007 Commission Meeting, is that when referring to ACLF there may have to be some minor amendments to the City Code, such as adding to the hospital district main permitted uses for ACLF or nursing home.

Discussion continued.

Commissioner Cruz suggested giving direction to the Planning Department to move forward and expand the hospital designation or legislation into allowing for acute care facility, ACLF and adapted reuse of the area.

Jorge Gonzalez, City Manager, asked City Attorney Jose Smith, if the HD district can be rezoned in that manner to expand the accessory use to a main permitted use and limiting any future developments on that site.

Jose Smith, City Attorney, stated that an accessory use can be introduced into a permitted use.

Discussion continued.

Commissioner Steinberg asked that if the Charter Amendment dealing with the FAR restriction were to pass, and the Planning Board later redefines hospital district to include ACLF, wouldn't that then trigger an issue that the City would be challenged?

Discussion held.

Jorge Gonzalez, City Manager, stated that notwithstanding the ballot question, the ordinance that this Commission is seeking to come back from Planning is accomplishing both things: 1) allowing to be adaptable reused as an ACLF, and 2) if no longer consistent with an HD district, then it reverts to the zoning of the abutting properties; and that is a blending of the two discussions held here.

Discussion continued.

Commissioner Gross stated that the protection he is seeking is that there is nothing more intense

than what exists now, and if what exists now is demolished, that it reverts to something compatible with the neighborhood.

Commissioner Cruz suggested expanding the definition of the HD district to include Acute Living Facility/Nursing Home as an adapted reuse and refer to the Planning Department.

Commissioner Gross also recommended including the park at no cost to the resident and single family homes on the RM1 site.

Discussion continued.

Motion to add as an emergency item to the Agenda by acclamation; Voice-vote: 7-0.

Commissioner Cruz explained, for the record, that the reason for placing this as an emergency item is because there is a referendum that is time sensitive that this Commission needs to address, which requires a 5/7 motion to add as an emergency item to create a referral to the Planning Board.

Jean Olin, Deputy City Attorney, added that the Miami-Dade Elections Department has given a deadline of October 2nd, by which ballot questions approved for placement at the November 6 ballot can be removed.

Motion by Commissioner Cruz to refer to the Planning Board for consideration at the October meeting in conjunction with this item regarding the HD district to include the use of ACLF, Acute Aggregate, Nursing Home Facilities as an adapted reuse.

Commissioner Gross suggested including in the motion the discussion of no increase in the FAR but what it is today, and if the building were to be demolished it would revert to the FAR of the immediate area.

Discussion held.

Motion made by Commissioner Cruz; seconded by Vice-Mayor Bower, to refer to the Planning Board for consideration at the October meeting in conjunction with this item regarding the HD district to include the use of ACLF/Acute Aggregate/Nursing Home Facilities, as an adapted reuse, including in the motion the discussion of no increase in the FAR and if the building were to be demolished that it would revert to the FAR of the existing immediate area; Voice-vote: 7-0.

Discussion continued.

Robert Parcher, City Clerk, clarified that for a Charter Amendment it needs to be passed between October 1st and November 30th.

Jorge Gomez, Planning Director, asked what the companion item is, since there is a requirement of a 30-day mailing notice for the hearing on the ordinance.

Discussion continued.

Jorge Gomez, Planning Director, summarized the motion, which is a referral to the Planning Board amending the hospital district main permitted uses category to allow for the adapted reuse of the existing buildings for nursing homes, ACLF, etc., with no new construction, no increase in FAR as it exists presently on various sites, and if structures are demolished, then the FAR will revert to the surrounding buildings. This item may be placed on the October Planning Board Agenda.

Discussion continued.

Final Motion:

Motion by Commissioner Cruz; seconded by Vice-Mayor Bower, to refer to the Planning Board the issue of amending the hospital district main permitted uses category to allow for the adapted reuse of the existing buildings for nursing homes, ACLF, and other uses, with no new construction, no increase in FAR as it exists presently on various sites, and if structures are demolished, then the FAR will revert to the surrounding buildings; Voice-vote: 7-0. Jorge Gomez to handle.

Motion by Commissioner Cruz to reconsider the placement of the bond issue on the ballot; seconded by Commissioner Libbin; passed unanimously; Voice-vote: 7-0. Bob Parcher to notify the Elections Department.

Motion by Commissioner Cruz; seconded by Commissioner Libbin to rescind Resolution No. 2007-26630. Voice-vote: 7-0. Bob Parcher to notify the Elections Department.

Handout or Reference Material:

1. Memorandum for City Attorney Jose Smith, from Frank Del Vecchio dated September 15, 2007 RE: Legislative Intent, Section 5.02, City Charter, Sept. 5 City Commission Ballot Resolution re Bond Question.
2. Email from Frank Del Vecchio to Robert Parcher dated September 14, 2007 RE: Miami Heart vs. Miami Beach.
3. Copy of ARTICLE V. BUDGET AND FINANCE, Chapters 5.01, Sec. 5.02 and Sec. 5.03, along with copies of ads on Ballot Questions amending City Charter sections.

7:00:34 p.m.

R9B Discussion Regarding Underground Electric Utility Conversion For Palm And Hibiscus Islands.
(Requested by Commissioner Cruz)

ACTION: Discussion held. Motion made by Vice-Mayor Bower; seconded by Commissioner Cruz, to transmit a letter to FPL stating that the City Commission authorizes FPL to continue with the work in the right-of-way, urging FPL to move forward with the design; Voice-vote: 7-0. **Fred Beckmann to handle.**

Commissioner Cruz introduced the item and asked the Administration to give a status of the project.

Robert Middaugh, Assistant City Manager, gave an overview of the process and explained that there are about 20 steps in the process and step six (6) has just been completed. There are some key actions which need to be done such as identifying the cost of the project, holding project hearings and establishment of the Special Assessment District pursuant to Statute which provides the funding source. He explained that the homeowner association has been working directly with Florida Power & Light (FPL) trying to locate the transformers in the right-of-way. In addition, FPL needs to complete their design which will allow AT&T and Atlantic Broadband to complete their design. Once the design is completed the project cost can be determined and the estimated cost can be provided to homeowners. FPL advised homeowners that they will not move forward with the project, even though they have been paid in full by the homeowner association, with a final design until the City executes an agreement, which is not appropriate for the City to execute until step 18 in the process. The City and FPL are meeting next week to clarify with FPL that they can continue their design using the City's right-of-way.

Jorge Gonzalez, City Manager, added that FPL is requesting an all inclusive agreement to install transformers in the right-of-way; and the agreement in place calls for payment of the design, its implementation and indemnification, all in one encompassing agreement. The City has no problem

giving FPL the right to use the right-of-way. FPL has backed off of the indemnity clause.

Motion made by Vice-Mayor Bower to transmit a letter to FPL stating that the City Commission authorizes FPL to continue the design using the City's right-of-way and urging FPL to move forward with the design; seconded by Commissioner Cruz; Voice-vote: 7-0. Fred Beckmann to handle.

Hans Muller stated that the homeowners are demanding that the City execute the Agreement with FPL expeditiously.

Jorge Gonzalez, City Manager, for the record, stated that the City was at an impasse with FPL, as were many other cities in the State. It was until the City of Miami Beach decided to join the Coalition of Cities to fight FPL at the Public Service Commission (PSC) that FPL finally backed off their position. He added that the City of Miami Beach has been working on behalf of the homeowner associations and on behalf of the coalition because Miami Beach became the name agent in the coalition and it was this Commission that authorized it. This agreement cannot be signed until the homeowners have a binding estimate and a vote, and there is no binding cost estimate at this time.

Discussion held.

Commissioner Cruz added that he will work with the Administration and keep the homeowner associations informed.

Handout or Reference Material:

1. Commission Memorandum to Mayor Dermer and Members of the City Commission from Jorge M. Gonzalez, City Manager, dated September 17, 2007, RE: Underground Electric Process.
2. Invitation to the Official Ribbon Cutting Ceremony of the new Palm Island Park, Sept 24, 2007.

New Item:

6:56:32 p.m.

R9C A Resolution of the Mayor and City Commission Recognizing Hialeah Park Race Track As A Valuable Local And National Historic Resource Of Great Importance And Urging The Owner John Brunetti, And Responsible Governmental Agencies Such As The City Of Hialeah And The South Florida Regional Planning Council, To Take Such Steps As Are Necessary And Appropriate To Preserve Hialeah Park To The Greatest Extent Possible.

ACTION: Resolution No. 2007-26635 rescinded and 2007-26644 adopted. Motion made by Vice Mayor Bower; seconded by Commissioner Góngora; Voice vote: 7-0; **Robert Parcher to transmit.**

Handout or Reference Material:

1. Resolution distributed at the dais.

8:22:52 p.m.

New Item:

Jorge Gonzalez, City Manager, asked if the City Commission wants to publish voter's guide.

Jean Olin, Deputy City Attorney, explained that the City Commission needs to pass a resolution if they want a voter's guide.

Mayor Dermer asked that this postponed for now.

No action taken.

Meeting adjourned at 8:23:50 p.m.

End of Regular Agenda